

§ 115.141

ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS

§ 115.141 Assessment for risk of victimization and abusiveness.

(a) Before placing any detainees together in a holding facility, agency staff shall consider whether, based on the information before them, a detainee may be at a high risk of being sexually abused and, when appropriate, shall take necessary steps to mitigate any such danger to the detainee.

(b) All detainees who may be held overnight with other detainees shall be assessed to determine their risk of being sexually abused by other detainees or sexually abusive toward other detainees; staff shall ask each such detainee about his or her own concerns about his or her physical safety.

(c) The agency shall also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:

(1) Whether the detainee has a mental, physical, or developmental disability;

(2) The age of the detainee;

(3) The physical build and appearance of the detainee;

(4) Whether the detainee has previously been incarcerated or detained;

(5) The nature of the detainee's criminal history; and

(6) Whether the detainee has any convictions for sex offenses against an adult or child;

(7) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender non-conforming;

(8) Whether the detainee has self-identified as having previously experienced sexual victimization; and

(9) The detainee's own concerns about his or her physical safety.

(d) If detainees are identified pursuant to the assessment under this section to be at high risk of victimization, staff shall provide such detainees with heightened protection, to include continuous direct sight and sound supervision, single-cell housing, or placement in a cell actively monitored on video by a staff member sufficiently proximate to intervene, unless no such option is determined to be feasible.

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(e) The facility shall implement appropriate controls on the dissemination of sensitive information provided by detainees under this section.

REPORTING

§ 115.151 Detainee reporting.

(a) The agency shall develop policies and procedures to ensure that the detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents, and shall provide instructions on how detainees may contact the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, report these incidents.

(b) The agency shall also provide, and shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request.

(c) Agency policies and procedures shall include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports.

§§ 115.152–115.153 [Reserved]

§ 115.154 Third-party reporting.

The agency shall establish a method to receive third-party reports of sexual abuse in its holding facilities. The agency shall make available to the public information on how to report sexual abuse on behalf of a detainee.

OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT

§ 115.161 Staff reporting duties.

(a) The agency shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred to any detainee; retaliation against detainees or staff who reported or participated in an investigation about such an